APPEAL NO. 040651
FILED MAY 13, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq*. (1989 Act). A contested case hearing was held on February 24, 2004. With respect to the issues before him, the hearing officer determined that the appellant/cross-respondent (claimant) did not sustain a compensable repetitive trauma occupational disease injury; that the date of the alleged injury is _____; that the claimant timely reported her alleged injury to her employer; and that she did not have disability because she did not sustain a compensable injury. In her appeal, the claimant argues that the hearing officer's determinations that she did not sustain a compensable injury and that she did not have disability are against the great weight of the evidence. In its cross-appeal, the respondent/cross-appellant (carrier) asserts error in the hearing officer's date of injury and notice determinations, arguing that the claimant's date of injury pursuant to Section 408.007 is the end of December 2002 and, thus, her injury report of May 24, 2003, was not timely made. Neither party responded to the other party's appeal.

DECISION

Affirmed.

The hearing officer did not err in making his injury, date of injury, notice, and disability determinations. Those issues presented questions of fact for the hearing officer to resolve. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the trier of fact, the hearing officer resolves the conflicts and inconsistencies in the evidence and decides what facts the evidence has established. Texas Employers Ins. Ass'n v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). The hearing officer was not persuaded that the claimant sustained her burden of proving that she sustained an injury as a result of performing repetitively traumatic typing at work. Nothing in our review of the record reveals that his determination in that regard is so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Accordingly, no sound basis exists for us to reverse that determination on appeal. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986). This is so even though another fact finder may have drawn different inferences from the evidence and reached a different result. Salazar v. Hill, 551 S.W.2d 518 (Tex. Civ. App.-Corpus Christi 1977, writ ref'd n.r.e.). Given our affirmance of the determination that the claimant did not sustain a compensable injury, the hearing officer did not err in determining that the claimant did not have disability in that, by definition, the existence of disability is dependent upon the existence of a compensable injury. Section 401.011(16).

The hearing officer also did not err in determining that the date of the alleged injury was _____. The carrier argues that the date of injury should have been the end of December 2002 because the claimant acknowledged having "mild

discomfort" in the right hand/wrist and having requested ergonomic changes to her workstation at that time. The claimant maintained that she did not know she was injured in late December 2002, she only felt mild pain and that she requested the ergonomic changes not because she believed she had an injury but in an effort to avoid an injury. The hearing officer was acting within his province as the fact finder in determining that the date the claimant first knew or should have known that she had an injury in her right hand/wrist was on _____, when she developed swelling and had to seek medical care at the emergency room. We cannot agree that the hearing officer's date-of-injury determination is so contrary to the overwhelming weight of the evidence as to compel its reversal. Cain, *supra*. The success of the carrier's argument that the claimant did not timely report her injury to her employer is dependent upon the success of its argument that the claimant's date of injury was in December 2002. Because we have affirmed the _____, date of injury, we also affirm the determination that the claimant timely reported her alleged injury to her employer.

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **HARTFORD FIRE INSURANCE COMPANY** and the name and address of its registered agent for service of process is

CT CORPORATION SYSTEM
350 NORTH ST. PAUL STREET
DALLAS, TEXAS 75201.

_____
Elaine M. Chaney
Appeals Judge

CONCUR:

_____
Daniel R. Barry
Appeals Judge

_____
Edward Vilano
Appeals Judge